

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
Eastern Division

**SRINIVASA RAO GUBBALA,**

Plaintiff,

*~ versus ~*

**ABERCROMBIE & FITCH TRADING CO.,**

Defendant.

Case No. 2:24-cv-00444

**ANSWER TO  
COUNTERCLAIMS  
WITH AFFIRMATIVE DEFENSES**

**ABERCROMBIE & FITCH TRADING CO., and  
ABERCROMBIE & FITCH CO.,**

Counterclaimants-Plaintiffs,

*~ versus ~*

**SRINIVASA RAO GUBBALA, and  
GANNETFISHER LLC,**

Counterclaim-Defendants.

COMES NOW the Counterclaim-Defendants **SRINIVASA RAO GUBBALA**, and **GANNETFISHER LLC**, with their Answer to the Counterclaim by **ABERCROMBIE & FITCH TRADING CO.**, and **ABERCROMBIE & FITCH CO.**<sup>1</sup> and do respectfully allege as follows:

<sup>1</sup> For clarity, Abercrombie & Fitch Trading Co., and Abercrombie & Fitch Co. are referred to as “Plaintiffs” and Srinivasa Rao Gubbala and Gannetfisher LLC are referred to as the “Defendants”. When a specific Counterclaim-Defendant is referred to, we use the term “Gubbala” and “GF” respectively.

## I. ANSWER

1. The Defendants respectfully submit that the allegations in Paragraph 1 of the Counterclaim are a characterization by the Plaintiffs of their Counterclaim, and are therefore legal conclusions for which no response is required. To the extent any response is required, the Defendants respectfully deny each and every factual allegation in Paragraph 1 of the Counterclaim.

2. The Defendants admit to the start of Paragraph 2 of the Counterclaim through “... 43054”. The Defendants are without sufficient information to either admit or deny the remaining allegations of Paragraph 2 and on that basis respectfully deny those allegations.

3. The Defendants admit to the allegations in Paragraph 2 of the Counterclaim except for the phrase “is a wholly owned subsidiary of A&F Co.”, for which the Defendants are without sufficient information to either admit or deny and on that basis deny that allegation.

4. Defendants admit the allegations in Paragraph 4 through 8 of the Counterclaim.

5. Paragraphs 9 through 15 of the Counterclaim are statements of law for which no response is required. To the extent that any response is required, the Defendants respectfully deny each and every factual allegation in Paragraphs 9 through 15 of the Counterclaim.

6. Defendants are without sufficient information to either admit or deny the allegations in Paragraphs 16 and 17 of the Counterclaim and, on that basis, respectfully deny those allegations.

7. Defendants admit the allegations in Paragraph 18.

8. Paragraph 19 of the Counterclaim reference certain documents, which speak for themselves and therefore do not require a response. Further, to the extent that Paragraph 19 of

the Counterclaim characterizes the Marks, those characterizations are legal conclusions for which no response is required. To the extent that a response is required, the Defendants respectfully deny the Plaintiffs' characterization of the Marks as described in Paragraph 19 of the Counterclaim.

9. Defendants are without sufficient information to either admit or deny the allegations in Paragraph 20 and 21, on that basis, respectfully deny those allegations.

10. Paragraphs 22, 23, 24 and 26 of the Counterclaim are statements of law for which no response is required. To the extent that any response is required, the Defendants respectfully deny each and every factual allegation in Paragraphs 22, 23, and 24 of the Counterclaim.

11. To the extent that Paragraphs 25, 27, 28, and 29 contain statements of law, no response is required. To the extent that there are any factual allegations in Paragraphs 25, 27, 28, and 29 of the Counterclaim, the Defendants are without sufficient information to either admit or deny those allegations and on that basis respectfully denies those allegations.

12. Defendants admit the allegations in Paragraph 30 of the Counterclaim.

13. Defendants deny the Plaintiffs' characterization of the Mark contained in Paragraph 31, and on that basis respectfully denies each and every factual allegation in Paragraph 31 of the Counterclaim.

14. Plaintiff admits the allegations in Paragraphs 32 and 33 of the Counterclaim.

15. To the extent that Paragraph 34 of the Counterclaim contains statements of law, no response is required. To the extent that any response is required, the Defendants deny the allegations up to the word "... Marks,"; and admits the remaining factual allegations in Paragraph 34 of the Counterclaim.

16. Paragraph 35 characterizes written documentation which speaks for itself. To the extent that any response is required, the Defendants admit the allegations in Paragraph 35 of the Counterclaims but not to the underlying Notice of Opposition referenced in the Paragraph.

17. Paragraph 36, including subsections (a)-(h) characterizes written documentation which speaks for itself. To the extent that any response is required, the Defendants admit the allegations in Paragraph 36 as to what the Notice of Opposition *alleged* but denies the underlying factual claims.

18. Paragraphs 37 through 40 of the Counterclaim characterize written documentation, which speak for itself. To the extent that any response is required, the Defendants admit to the factual allegations in Paragraphs 37 through 40 with respect to what TTAB *found*, but not to the underlying conclusions reached by TTAB, nor to the Plaintiffs' characterization of the documentation and decision.

19. Defendants admit the allegations in Paragraphs 41 through 44 of the Counterclaim.

20. Defendants admit the allegations in Paragraph 45 of the Counterclaim through the words “. . . social media channels” and deny each and every other allegation in Paragraph 45 of the Counterclaim.

21. Defendants admit the allegations in Paragraphs 46 through 49 of the Counterclaim.

22. Paragraphs 50 through 61 of the Counterclaim characterize the First Counterclaim and contain conclusions and arguments of law to which no response is required. To the extent that any response is required, the Defendants respectfully deny each and every allegation in Paragraphs 50 through 61 of the Counterclaim.

23. Paragraphs 62 through 70 of the Counterclaim characterize the Second Counterclaim and contain conclusions and arguments of law to which no response is required. To the extent that any response is required, the Defendants respectfully deny each and every allegation in Paragraphs 50 through 61 of the Counterclaim.

24. Paragraphs 71 through 78 of the Counterclaim characterize the Third Counterclaim and contain conclusions and arguments of law to which no response is required. To the extent that any response is required, the Defendants respectfully deny each and every allegation in Paragraphs 71 through 78 of the Counterclaim.

25. Paragraphs 79 through 87 of the Counterclaim characterize the Fourth Counterclaim and contain conclusions and arguments of law to which no response is required. To the extent that any response is required, the Defendants respectfully deny each and every allegation in Paragraphs 79 through 87 of the Counterclaim.

26. Paragraphs 88 through 95 of the Counterclaim characterize the Fifth Counterclaim and contain conclusions and arguments of law to which no response is required. To the extent that any response is required, the Defendants respectfully deny each and every allegation in Paragraphs 88 through 95 of the Counterclaim.

27. Paragraphs 96 through 104 of the Counterclaim characterize the Sixth Counterclaim and contain conclusions and arguments of law to which no response is required. To the extent that any response is required, the Defendants respectfully deny each and every allegation in Paragraphs 96 through 104 of the Counterclaim.

28. Paragraphs 105 through 110 of the Counterclaim characterize the Seventh Counterclaim and contain conclusions and arguments of law to which no response is required. To

the extent that any response is required, the Defendants respectfully deny each and every allegation in Paragraphs 105 through 110 of the Counterclaim.

29. Paragraphs 111 through 116 of the Counterclaim characterize the Eighth Counterclaim and contain conclusions and arguments of law to which no response is required. To the extent that any response is required, the Defendants respectfully deny each and every allegation in Paragraphs 111 through 116 of the Counterclaim.

30. Paragraphs 117 through 122 of the Counterclaim characterize the Ninth Counterclaim and contain conclusions and arguments of law to which no response is required. To the extent that any response is required, the Defendants respectfully deny each and every allegation in Paragraphs 111 through 116 of the Counterclaim.

## **II. AFFIRMATIVE DEFENSES**

1. The Complaint fails to state any cause of action against the Defendants.
2. The Plaintiff failed to mitigate, obviate, diminish and/or otherwise act to lessen or reduce the injuries, damages and/or disabilities alleged in the Counterclaims.
3. The claims are barred by documentary evidence.
4. The claims are barred by the doctrine of Laches.
5. The claims are barred by the doctrines of waiver and ratification.
6. Plaintiffs would be unjustly enriched if the judgment on the causes of action in the Complaint were granted.
7. Plaintiff's claims are barred by its own culpable conduct and/or the culpable conduct of the Plaintiffs' agents.
8. There is no federal court jurisdiction over the remaining claims.

9. The Defendant respectfully reserves the right to assert additional affirmative defenses as such as determined the course of this litigation and/or identified during Discovery.

DATED: **AUGUST 23, 2024**

RESPECTFULLY SUBMITTED,

By:

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